GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Procurement Policy- Make in India (PPP-MII) –Order of Government of Andhra Pradesh 2020 - Orders – Issued.

INDUSTRIES AND COMMERCE (PROG-1) DEPARTMENT

G.O.Ms.No.9 Dated:25.02.2021

Read the following:

1. From the Under Secy. to GoI, Ministry of Commerce and Industry, Dept. of Industrial Policy and Promotion, GoI, New Delhi, Reference No. P-45021/2/2017-BE-II, Dt. 15.06.2017.
2. From the Under Secy. to GoI, Ministry of Commerce and Industry, Dept. of Promotion of Industry and Internal Trade, GoI, New Delhi, Reference No.P-45021/2/2017-PP (BE-II), Dt. 28.05.2018.
3. From the Senior Development officer, Ministry of Commerce and Industry, Dept. of Industrial Policy and Promotion, GoI, New Delhi, Reference No. P-45021/2/2017-PP (BE-II), Dt.29/05/2019.
4. From the Director, Ministry of Commerce and Industry, Department for promotion of Industry and Internal Trade, Government of India, New Delhi, Reference No. P-45021/2/2017-PP (BE-II),dated 04/06/2020.

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ORDER

In the reference 1st read above, the Government of India, Department of Industrial Policy and Promotion has introduced a policy i.e Public Procurement (Preference to Make in India) order 2017 and to encourage 'Make in India' and promote manufacturing and products of goods and services in India with a view to enhancing income and employment.

2. In the reference 2nd to 4th read above, the Government of India, Ministry of Commerce and Industry, Dept. of Industrial Policy and Promotion (DPIIT), has made the consequent revisions on 28.05.2018, 29.05.2019 and 04.06.2020 have issued the revised "Public Procurement (Preference to Make in India), Order 2017" dated 04.06.2020 with immediate effect, and

Whereas it is the policy of the Government of India to encourage "Make in India and promote manufacturing and production of goods and services in India with a view to enhancing income and employment, and

Whereas procurement by the Government is substantial in amount and can contribute towards this policy objective, and

Whereas local content can be increased through partnerships, cooperation with local companies, establishing production units in India

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or Joint Ventures (JV) with Indian suppliers, increasing the participation of local employees in services and training them, and

Whereas the PPP-MII Order was issued by the DPIIT at incentivizing the production through local content requirements and purchase preference thereby encouraging domestic manufacturers and service providers' participation in public procurement of goods, services and works by central agencies.

3. Government after careful examination have decided to adopt the Public Procurement (Preference to Make in India) Order'2017 in the state of Andhra Pradesh and hereby issues the following order.

1. SHORT TITLE

This Order may be referred to "Public Procurement Policy – Make In India (PPP- MII) Order of Government of Andhra Pradesh 2020

2. EFFECTIVE DATE

This Order shall take effect from the date of its notification.

3. DEFINITIONS

The following definitions apply for this Order

1. "local content" means the amount of value added in India which shall, unless otherwise prescribed by the Nodal Department, be the total value of the item procured (excluding net domestic indirect taxes) minus the value of imported content in the item (including all customs duties) as a proportion of the total value, in percent
2. "Class-I local supplier" means a supplier or service provider, whose goods, services or works offered for procurement, has local content equal to or more than 50% , as defined under this Order.
3. "Class-II local supplier" means a supplier or service provider, whose goods, services or works offered for procurement, has local content more than 20% but less than 50%, as defined under this Order.
4. Non-Local supplier" means a supplier or service provider, whose goods, services or works offered for procurement, has local content less than or equal to 20%, as defined under this Order.
5. 'L1 Means the lowest tender or lowest bid or the lowest quotation received in a tender, bidding process or other procurement solicitati on as adjudged in the evaluation process as Per the tender or other procurement solicitation.
6. "Margin of purchase preference" means the maximum extent to which the price quoted by "Class-I local supplier" may be above the L1 for the purpose of purchase preference.

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7. "Nodal Department" means the Department identified pursuant to this order in respect of a particular item of goods or services or works.
8. "Procuring Entities" refers to all Government Departments, Local Bodies, Statutory Bodies, Development Authorities, Bodies created through Executive Orders, Companies, Corporations, Special Purpose Vehicles, Societies, Trusts and any other Public Sector Undertakings.

4. ELIGIBILITY CRITERIA

Eligibility of "Class-I local supplier"/"Class–II local supplier"/"Non-Local suppliers" for different types of procurement

a. In procurement of all goods, services or works in respect of which the Nodal Department has communicated that there is sufficient local capacity and local competition, only "Class I local supplier" as defined under the Order, shall be eligible to bid irrespective of purchase value.
b. In procurement of all goods, services or works, not covered by sub-para 4 (a) above, and with estimated value of purchase less than Rs.200 crore, in accordance with rule 161(iv) of GFR, 2017, Global tender enquiry shall not be issued except with the approval of competent authority as designated by the Finance Department. Only "Class-I local supplier" and "Class-II local supplier", as defined under the Order, shall be eligible to bid in procurements undertaken by procuring entities, except when Global tender enquiry has been issued. In global tender enquiries, "Non-local suppliers" shall also be eligible to bid along with "Class-I local suppliers" and "Class-II local suppliers".
c. For the purpose of this Order, works included Engineering, Procurement and Construction (EPC) contracts and services include System Integrator (SI) contracts.

5. PURCHASE PREFERENCE

a. Subject to the provisions of this Order and to any specific instructions iss ued by the Nodal Department or in pursuance of this Order, purchase preference shall be given to "Class-I local supplier" in procurements under taken by procuring entities in the manner specified hereunder.
b. In the procurements of goods or works, which are covered by para 4(b) ABOVE AND WHICH ARE DIVISIBLE IN NATURE, THE "Class-I local supplier" shall get purchase preference over "Class-II local supplier" as well as "non-local supplier" as per following procedure.

   i. Among all qualified bids, the lowest bid will be termed as L1. If L1 is "Class-I local supplier", the contract for full quantity will be awarded to L1.
   ii. If L1 bid is not a" Class-I local supplier", 50% of the order quantity shall be awarded to L1. Thereafter, the lowest bidder among the

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"Class-I local supplier" will be invited to match the L1 price for the remaining 50% quantity subject to the Class-I local supplier's quoted price falling within the margin of purchase preference, and contract for that quantity shall be awarded to such "Class-I local supplier" subject to matching the L1 price. In case such lowest eligible" Class-I local supplier" fails to match the L1 price or accepts less than the offered quantity, the next higher" Class-I local supplier" within the margin of purchase preference shall be invited to match the L1 price for remaining quantity and so on, and contract shall be awarded accordingly. In case some quantity is still left uncovered on Class-I local suppliers, then such balance quantity may also be ordered on the L1 bidder.

c. In the procurements of goods or works, which are covered by para 5(b) above and which are not divisible in nature, and in procurement or services where the bid is evaluated on price alone, the "Class-I local supplier" shall get purchase preference over "Class-II local supplier" as well as "Non-local supplier" as per following procedure:

i. Among all qualified bids, the lowest bid will be termed as L1. If L1 is "Class-I local supplier", the contract will be awarded to L1.
ii. If L1 is not 'Class-I local supplier', lowest bidder among the 'Class-I local supplier', will be invited to match the L1 price subject to Class-I local supplier's quoted price falling within the margin of purchase preference, and the contract shall be awarded to such 'Class-I local supplier' subject to matching the L1 price.
iii. In case such lowest eligible 'Class-I local supplier' fails to match the L1 price, the 'Class-I local supplier' with the next higher bid within the margin of purchase preference shall be invited to match the L1 price and so on and contract shall be awarded accordingly. In case none of the 'Class-I local supplier' within the margin of purchase preference matches the L1 price, the contract may be awarded to the L1 bidder.

- "Class-II local supplier" will not get purchase preference in any procurement, undertaken by procuring entities.

6. EXEMPTION OF SMALL PURCHASES:

Not with standing anything contained in paragraph 5, procurements where in the estimated value to be procured is less than Rs. 5 lakhs shall be exempt from this Order. However, it shall be ensured by procuring entities that procurement is not split for the purpose of avoiding the provisions of this Order.

The maximum amount of such small purchases should not exceed Rs.30.00 lakhs in a financial year by a HoD/Indenting Authority. The respective HOD/Indenting Authority shall certify while making each such procurement that the cumulative procurements below 5 lakhs in financial year has not exceeded Rs.30.00 lakhs.

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7. MINIMUM LOCAL CONTENT:

The local content requirement to categorize a supplier as 'Class-I local supplier'/Class-II local supplier'/'Non-local supplier' shall be as defined in the Para"3" of the Order. No change is permissible on this account. However, if any nodal department finds that for any particular item, pertaining to their department, the definition of Local Content, as defined in the Order, is not workable/ has limitations, it may notify alternate suitable mechanism for calculation of local content for that particular item.

8. MARGIN OF PURCHASE PREFERENCE:

The margin of purchase preference shall be 20%. The suppliers who are registered and manufacture in the state of Andhra Pradesh shall have an additional purchase preference of 5%.

The State Government PSUs shall have further additional purchase preference of 5%, if the products are directly manufactured by them".

9. REQUIREMENT FOR SPECIFICATION IN ADVANCE:

The minimum local content, the margin of purchase preference and the procedure for preference to Make in India shall be specified in the notice inviting tenders or other form of procurement solicitation and shall not be varied during a particular procurement transaction.

10. GOVERNMENT E-MARKET PLACE:

In respect of procurement through the Government e-market place (GeM) shall, as far as possible, specifically mark the items which meet the minimum local content while registering the item for display, and shall, wherever feasible, make provision for automated comparison with purchase preference and without purchase preference and for obtaining consent of the local supplier in those cases where purchase preference is to be exercised.

11. VERIFICATION OF LOCAL CONTENT:

a. The 'Class-I local supplier'/'Class-II local supplier' at the time of tender, bidding or solicitation shall be required to indicate percentage of local content and provide self- certification that the item offered meets the local content requirement for 'Class-I local supplier'/Class-II local supplier', as the case may be. They shall also give details of the location (s) at which the local value addition is made.
b. In cases of procurement for a value in excess of Rs. 10crores, the 'Class-I local supplier'/'Class-II local supplier' shall be required to provide a certificate from the statutory auditor or cost auditor of the

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company (in the case of companies) or from a practicing cost accountant or practicing chartered accountant (in respect of suppliers other than companies) giving the percentage of local content.

c. Decisions on complaints relating to implementation of this Order shall be taken by the competent authority which is empowered to look into procurement- related complaints relating to the procuring entity.
d. Nodal Departments may constitute committees with internal and external experts for independent verification of self – declarations and auditor's/accountant's certificates on random basis and in the case of complaints.
e. Nodal Departments and procuring entities may prescribe fees for such complaints.
f. False declarations will be in breach of the Code of Integrity under Rule 175(1) (i)(h) of the General Financial rules for which a bidder or its successors can be debarred for up to two years as per Rule 151(iii) of the General Financial Rules along with such other actions as may be permissible under law.
g. A supplier who has been debarred by any procuring entity for violation of this order shall not be eligible for preference under this Order for procurement by any other procuring entity for the duration of the debarment. The debarment for such other procuring entities shall take effect prospectively form the date on which it comes to the notice of other procurement entities, in the manner prescribed under paragraph 11h below.
h. The Industries Department with the concurrence of Finance Department shall issue suitable instructions for the effective and smooth operation of this process, so that:

    1. The fact and duration of debarment for violation of this Order by any procuring entity are promptly brought to the notice of the Member- Convener of the Standing Committee through the concerned Department or in some other manner.
    2. On a periodical basis such cases are consolidated and a centralized list or decentralized lists of such suppliers with the period of debarment is maintained and displayed on website(s).
    3. In respect of procuring entities other than the one which has carried out the debarment, the debarment takes effect prospectively from the date of uploading on the website(s) in such a manner that ongoing Procurements are not disrupted.

12. SPECIFICATIONS IN TENDERS AND OTHER PROCUREMENT SOLICITATIONS:

a. Every procuring entity shall ensure that the eligibility conditions in respect of previous experience fixed in any tender or solicitation do not require proof of supply in other countries or proof of exports.

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b. Procuring entities shall Endeavour to see that eligibility conditions including on matters like turnover, production capability and financial strength do not result in unreasonable exclusion of 'Class-I local supplier'/'Class-II local supplier' who would otherwise be eligible, beyond what is essential for ensuring quality or creditworthiness of the supplier.
c. Procuring entities shall, within 2 months of the issue of this Order review all existing eligibility norms and conditions with reference to sub-paragraphs 'a' and 'b' above.
d. If a Nodal Department is satisfied that Indian suppliers of an item are not allowed to participate and/or compete in procurement by any foreign government, it may, if it deems appropriate, restrict or exclude bidders from that country from eligibility for procurement of that item and / or other items relating to that Nodal Department. A copy of every instruction or decision taken in this regard shall be sent to the Chairman of the Standing Committee.
e. For the purpose of sub-paragraph 12 d above, a supplier or bidder shall be considered to be from a country if i) if the entity is incorporated in that country , or ii) a majority of its shareholding or effective control of the entity is exercised form that country or iii) more than 50% of the value of the item being supplied has been added in that country. Indian suppliers shall mean those entities which meet any of these tests with respect to India.

13. ACTION FOR NON –COMPLIANCE OF THE PROVISIONS OF THE ORDER:

In case restrictive or discriminatory conditions against domestic suppliers are included in bid documents, an inquiry shall be conducted by the administrative department undertaking the Procurement (including procurement by any entity under its administrative control) to fix responsibility for the same. Thereafter, appropriate action, administrative or otherwise, shall be taken against erring officials of procurement entities under relevant provisions. Intimation on all such actions shall be sent to the Standing Committee.

14. ASSESSMENT OF SUPPLY BASE BY NODAL DEPARTMENT:

The Nodal Department shall keep in view the domestic manufacturing/ supply base and assess the available capacity and the extent of local competition while identifying items and prescribing minimum local content or the manner of its calculation, with a view to avoiding cost increase from the operation of this order.

15. INCREASE IN MINIMUM LOCAL CONTENT:

The Nodal Department may annually review the local content requirements with a view to increasing them, subject to availability of local competition with adequate quality.

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16. MANUFACTURE UNDER LICENSE / TECHNOLOGY COLLABORATION AGREEMENTS WITH PHASED INDIGENIZATION:

While notifying the minimum local content ,Nodal Departments may make special provisions for exempting suppliers from meeting the stipulated local content if the product is manufactured in India under a license from a foreign manufacturer who holds Intellectual Property rights and where there is a technology collaboration agreement / transfer of technology agreement for indigenous manufacturer of a product developed abroad with clear phasing of increase in local content.

17. POWERS TO GRANT EXEMPTION AND TO REDUCE MINIMUM LOCAL CONTENT :

The administrative Department undertaking the procurement (including procurement by any entity under its administrative control), with the approval of their Minister –in-charge, may be written order, for reasons to be recorded in writing.

a. reduce the minimum local content below the prescribed level ; or
b. reduce the margin of purchase preference below 20%; or
c. exempt any particular item or supplying entities from the operation of this order or any part of the order.

A copy of every such order shall be provided to the standing committee and concerned Nodal Department. The Nodal Department concerned will continue to have the power to vary its notification on Minimum local content.

18. DIRECTIONS TO GOVERNMENT COMPANIES:

In respect of Government companies and other procuring entities not governed by the General Financial Rules, concerned Department shall issue policy directions requiring compliance with this order.

19. COUNTRIES WHICH SHARE LAND BORDER WITH INDIA

Further, the bidders from countries which share land border with India will be eligible to bid in public procurement, only if they are registered with the competent authority.

DPIIT constituted Registration Committee on 06.08.2020 to consider applications received for registration of bidders from countries which share

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land border with India for participation in public procurement with following composition:

Chairperson	Joint Secretary Department for Promotion of Industry and Internal Trade
Members	Joint Secretary, Ministry of Home Affairs
	Director, Ministry of External Affairs
	Officers (ordinarily not below the rank of Joint Secretary) representing those Departments whose Sectors are covered by applications under consideration
	Any other officer whose presence is deemed necessary by the Chairman of the Committee.

The State will considered the bidders from countries which share land border with India to bid, provided they have valid registration from the competent authority of GoI.

20. A STANDING COMMITTEE is hereby constituted with the following members.

Chief Secretary to Government of A.P	:	Chairperson
Spl. Chief Secretary, I&C	:	Vice Chairman
Spl.C.S/Prl.Secy/Secretary of Procuring Dept.	:	Member
Secretary (IT)	:	Member
Principal Secretary Finance	:	Member
Director of Industries	:	Member-convener

The Secretary of the department concerned with a particular item shall be a member in respect of issues relating to such item. The Chairman of the Committee may Co-opt technical experts as relevant to any issue or class of issues under its consideration.

21. FUNCTIONS OF THE STANDING COMMITTEE:

The Standing Committee shall meet as often as necessary, as but not less than once in Six months. The Committee

a. shall oversee the implementation of this order and issues arising there from and make recommendations to Nodal Departments and procuring entities.
b. shall annually assess and periodically monitor compliance with this order.
c. shall identify Nodal Departments and the allocation of items among them for issue of notifications on minimum local content.
d. may require furnishing of details or returns regarding compliance with this order and related matters.

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e. may , during annual review or otherwise assess issues ,if any , where it is felt
f. that the manner of implementation of the order results in any restrictive practices, cartelization or increase in public expenditure and suggest remedial measures.
g. may examine cases covered by Para 16 above relating to manufacture under license/ technology transfer agreements with a view to satisfying itself that adequate mechanisms exist for enforcement of such agreements and for attaining the ` underlying objective of progressive indigenization
h. may consider any other issue relating to this order which may arise.

22. REMOVAL OF DIFFICULTIES:

Departments and the Boards of Directors of Government companies may issue such clarifications and instructions as may be necessary for the removal of any difficulties arising in the implementation of this order.

23. DEPARTMENTS HAVING EXISTING POLICIES:

Where any Department has its own policy for preference to local content approved by the Government, such policies will prevail over the provisions in this order. All other existing orders on preference to local content shall be reviewed by the Nodal Departments and revised as needed to confirm to this order, within two months of the issue of this order.

24. TRANSITIONAL PROVISION:

This order shall not apply to any tender or procurement for which notice inviting tender or other form of procurement solicitation has been issued before issue of this order.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

R. KARIKAL VALAVEN
SPL. CHIEF SECRETARY TO GOVERNMENT

To
All Departments/State PSUs/All Concerned.
The Director of Industries, Vijayawada.
P.S to Chief Secretary to Government.
Special Chief Secretary to Government, Ind. & Com. Department.
Secretary to Government, IT Department.
Principal Secretary to Government, Finance Department.
Copy to: OSD to Hon'ble Minister for Industries.
The Finance (FMU -I&I, Energy and I&C) Department.
The Secretary, Ministry of Commerce and Industry,
Dept. of Promotion of Industry and Internal Trade, GoI, New Delhi
Sf/Sc

// FORWARDED :: BY ORDER//

SECTION OFFICER